IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2315 OF 2005

The Indian Industrial Company : Petitioners

V/s.

Municipal Corporation of Greater Bombay

& Ors. : Respondents

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Mr.R.M. Nakhwa i/b. Mr.V.B.Dhawan for the petitioners.

Ms Aruna Savla for the respondents.

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CORAM : H.L.GOKHALE & A.S.OKA,JJ.

DATE : MARCH 3, 2006.

P.C.

1. Heard Mr.Nakhwa in support of this petition and Ms Savla for the respondents. Ms Savla has filed an affidavit of one V.T. Sable, Sub-Engineer from the Estate Department.

2. The petitioners seek to challenge the Municipal communication dated 1.6.2005 whereby the BMC has called upon the petitioner to pay extra ground rent for various works in the building constructed by the petitioners in the sum of Rs.26,73,045.40. The case of the petitioners is that they should be treated similarly with

reconstructed buildings and they are eligible for the same concession available to such buildings. Ms Savla, learned counsel appearing for the respondents, disputes this submission of parity and points out that this is not one of those buildings and has also drawn our attention to the undertaking given by the petitioners on 2.7.1998 wherein the petitioners have agreed to pay the requisite ground rent.

3. Mr.Nakhwa after taking instructions from one Mr. Rane, Partner of the petitioners, stated that the petitioners be given time of three months to deposit the requisite amount with the Municipal Corporation. We expect the petitioners to deposit the amount with the Corporation within three months i.e. on outer limit by the end of May 2006. In view of this statement made by Mr.Nakhwa, the Corporation will not take any coercive measures until the end of May 2006. Mr.Nakhwa states that the amount will be deposited with the Corporation within three months. He further states that the petitioners will make a representation to the concerned Municipal authorities so that Occupation Certificate can be issued. On receipt of the amount, the B.M.C. will issue N.O.C. for Occupation Certificate. In the event the representation is accepted either fully or in part, appropriate refund will be given. The representation will

be decided after hearing the petitioners.

4. The petition stands disposed of.

H.L. GOKHALE, J.

A.S. OKA, J.